

**Introduction to Political Theory**  
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**Lecture - 10**

**Rights II: Conflicts in Different Theories of Rights: Libertarian, Communitarian, Multi-Culturalists and 'Asian Value' Debates**

Hello, friends. In the second lecture on rights, today, we are going to discuss different theories and conflicts inherent in these theories about rights, their different conceptions or interpretations of rights and the inherent tensions or conflicts in these theories about rights.

And to deal with, what kind of rights individuals should have and on what basis? Whether, we should determine what kind of rights an individual should have, or should it be on the basis of the conception that individual is independent and autonomous of his or her community. Therefore, certain natural, inalienable, and absolute rights must be recognized and protected for individuals or we should consider individuals as member of a particular community. So, the rights which we recognize or protect individuals should be on the basis of this kind of recognition that individual is not autonomous or isolated from his or her community, but embedded in his or her own community. Therefore, the rights, we give or sanction to individuals should be based on because of his membership to a particular community.

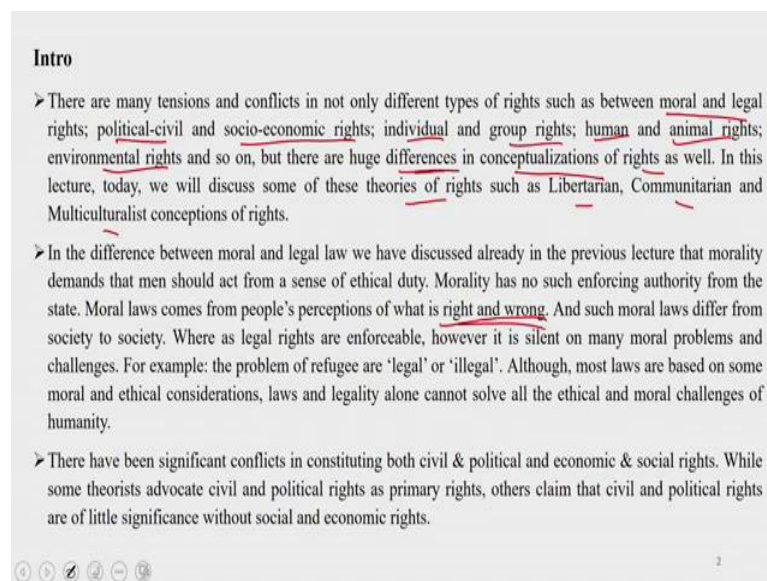
Some of these issues, we are going to discuss, while looking at the theories on rights of libertarian, communitarian and multi-culturalists perspectives on rights. In the second part, we will discuss about the 'Asian value' debate, in response, to what is regarded in 1990s as a kind of limited or selfish understanding, or self-destructive paths of western, and modern capitalist mode of development. And in response to those models of rights, individuals or values, there are many leaders in Asia, who have responded to the values of community, social order, and collective welfare, etc.

Within western concerns, the focus is on the very idea of common good versus individual goods. But in 'Asian value', the prime focus is very much over collective or community and it is given much importance as compared to the western reconfigurations.

Prior to discussing these theories or 'Asian value', we will look at Ronald Dworkin's conception of talking rights seriously, in his response to positivism which tries to reduce rights through a kind of understanding on the basis of understanding for a collective or common good. In the interest of common good, it wants certain rights to be limited or controlled.

We will discuss about four types of rights which we will identify, by looking at the relationship of certain kinds of rights to the corresponding obligations and duties along with a discussion on some of these theories. In the concluding lecture, on rights that is third lecture, we will discuss about human rights. Here, we will again, discuss about some of the rights that we have already, discussed such as the political, civil, social and economic rights. We will conclude our lecture on rights by discussing the relationship of rights with duties, and rights with obligations.

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**Intro**

- There are many tensions and conflicts in not only different types of rights such as between moral and legal rights; political-civil and socio-economic rights; individual and group rights; human and animal rights; environmental rights and so on, but there are huge differences in conceptualizations of rights as well. In this lecture, today, we will discuss some of these theories of rights such as Libertarian, Communitarian and Multiculturalist conceptions of rights.
- In the difference between moral and legal law we have discussed already in the previous lecture that morality demands that men should act from a sense of ethical duty. Morality has no such enforcing authority from the state. Moral laws comes from people's perceptions of what is right and wrong. And such moral laws differ from society to society. Where as legal rights are enforceable, however it is silent on many moral problems and challenges. For example: the problem of refugee are 'legal' or 'illegal'. Although, most laws are based on some moral and ethical considerations, laws and legality alone cannot solve all the ethical and moral challenges of humanity.
- There have been significant conflicts in constituting both civil & political and economic & social rights. While some theorists advocate civil and political rights as primary rights, others claim that civil and political rights are of little significance without social and economic rights.

There are many tensions and conflicts apart from different types of rights that we have already discussed. For example, between moral and legal rights, political, civil rights on the one hand and socio-economic rights on the other hand, like individual and group rights human or non-human animal rights or environmental rights. These tensions and conflicts are not just limited to these kinds of rights alone, but there are huge differences in conceptualization of rights as well. So, what does it mean to have right? What kind of right is regarded as true rights or others as metaphysical or some kind of imaginary rights

which is not enforceable. But it has some other kinds of authority. The tensions and conflicts in rights are not just about the kinds of rights, but also, about the conception of rights, and different theories on rights.

In this lecture today, we will discuss some of these theories of rights such as libertarian, communitarian and multi-culturalist conceptions of rights. In the difference between moral and legal laws, we have discussed already, in the previous lecture that morality demands, men should act from a sense of moral and ethical duty or responsibility. The morality has no enforcing authority from the state and these moral laws come from people's perception of what is right or wrong.

It has certain forms of authority or effectiveness in the sense, that it is based on people's perception, their collective perception about how a man should act and how man should act morally, or ethically. However, it does not have the backing of the state, if some individuals violate those ethical, and moral codes, than he or she cannot be held responsible by the court of law. However, it has general, social or common authority. So, the source of moral authority lacks the backing of state and its court, whereas, the legal rights are enforceable. However, it is silent on many moral problems or challenges which humanity faces.

One of the examples, in contemporary times is the refugee issue. It indicates that human-beings because of certain natural or man-made calamities used to take shelter in different parts of the world. The issue of refugees appears because the contemporary world is also, a world of nation-state, where every nation guards its border and it is not easy, to move from one nation-state to other, or can enter nation-states without having proper visa or passport. If a group of community faces persecution in his or her home state, than to move or to seek shelter or asylum in other states has become not merely, a legal issue, but also, a moral issue and however, question arises, whether the mass movements from one nation to other should be justified.

In the case of Rohingyas, in contemporary times is a case of refugees, where it invokes certain moral and legal issues, that is, involved whether we should grant asylum to these people or not, and on what grounds, we should deny such asylum to them. This issue of legality and illegality becomes contentious and legality, do not provide the solution to many of the moral problems that humanity is facing. So, that is the kind of distinction

made between legal and moral rights, and this we have discussed in the previous lecture also.

There have been significant conflicts in constituting both the civil, political, economic and social rights. So, many theorists and scholars, have argued that in conflicts between political and civil rights, civil rights should be given more significance than political rights or in conflict between civil and political rights, on the one hand and social and economic rights on the other hand, it can be argued that the civil and political rights should be given primacy over social and economic rights.

However, contrary to this kind of argument, there are many scholars who have argued that civil and political sense will have no significance or very less significance for those who do not have their basic needs met. In other words, without the social and economic rights, the civil and political rights will have very little significance to them. So, we find these conflicts, when we think about different kinds of rights.

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**Dworkin: *Taking Rights Seriously* (1977)**

- In this essay *Taking Rights Seriously*, philosopher and constitutional lawyer, Ronald Dworkin argued that 'rights are trumps'. By this, he meant that basic rights must take precedence over other norms including the interests or welfare of the community.
- Rights are individual possessions which can not be violated simply because such violations may benefit other individuals or society as a whole.
- It is based on those foundational or constitutional notions of rights that are used by the courts in the jurisprudence to override legislation contrary to these rights even if such legislations are democratically endorsed and claims to serve larger 'public' goods.

We will first discuss about the conception of rights as argued by Ronald Dworkin, in his essay called 'Taking Rights Seriously'. This is in response, to those scholars and theorists, especially, while arguing about rights from the juridical or from the position of jurisprudence. He is a jurist and so, it is obvious to have this response. The jurisprudence provides the basis for interpretation of certain laws, legislation and policies of the state.

So, those theorists or legal scholars, who argued, there is sufficient grounds to curtail or limit the rights of individuals, if such limitations or curtailment is in the benefit of larger good or common good of the society or humanity. However, against this kind of argument, Ronald Dworkin argued about the significance or inalienability of rights in the sense, he wants those scholars to take rights seriously, as the name suggests. So, a right is not something, which can be compromised or tradeoff between other kinds of goods or goods for the humanity. But rights are something which is considered inalienable and very essential for the growth of individuals. It cannot be traded off in some other goods or moral political values.

In this essay, 'Taking Rights Seriously', philosopher and constitutional lawyer Ronald Dworkin, argued, 'rights are trumps'. By this phrase 'rights are trumps', he meant that the basic rights must take precedence over other norms, including, the interests or welfare of the whole community or society. So, there are certain fundamental rights which must be given primacy, to any other goods that may be society collectively is desirable. In other words, the rights are the possessions of individuals which cannot be taken away or which cannot be traded off with some other goods. Rights, are therefore, individual possessions which cannot be violated simply, because such violations benefit other individuals or society as a whole.

In Ronald Dworkin's conception of rights is something, which is the possession of individual which cannot be violated, even if, such violation is in the interest of other individuals or groups of individuals or even for the good of society or community as a whole. In that sense, his conception of rights are considered as inevitable or essential possession of individuals which must not be taken away or infringed upon for the sake of other goods or goods for the whole society. It is thus, based on those foundational or constitutional notions of rights which are used by the courts in jurisprudence.

Thus, jurisprudence, as I have explained is the source on the basis of which court determines the legality, of any legislation passed by the Parliament or by any organs of the executive or machinery of the state or any violation done to them by private individuals. So, the jurisprudence is much broader and bigger than the law, and law in the sense of positive qualified laws as put in the constitution or in the legislation. They are the written words. To interpret those written words and its actual application, in a

given situation, its interpretation requires something, more than what is written which we call as the jurisprudence.

This understanding of rights is based on those foundational or constitutional notions of rights which are used by the courts to override legislation contrary, to these rights, even if, such legislations democratically, endorse or claims to serve the public good. Here, we need to understand, we can take the example of Indian constitution. So, Parliament is empowered to enact legislation in the service of people or for the benefit of people.

Now, in enacting such legislation, it cannot violate certain principles of the constitution or certain rights given to the individual by the constitution. If it does so, then such person or the members of the society, may request the court, that means, supreme court or the high court which then, can review the legislation enacted by the Parliament or duly, enacted by the Parliament. And then, it decides, how far that enactment is in contrary to the principles of constitution or violate, the rights protected in the constitution. And so far, it violates or limits those enactments or legislation which can be nullified by the constitution. We are talking about reviewing a Parliament Act or legislation through the constitutional mechanisms or principles.

Similarly, in many other issues, the laws passed by the Parliament, by following the procedure duly, established or even if, it claims to serve the common good yet those laws or enactments can be nullified or can be overridden by the court using the jurisprudence or the foundational ideas of the rights as in the constitution. The conception of rights as argued by Dworkin is about such kinds of rights, where those rights cannot be taken away, even by the Parliamentary legislation in the name of serving the common good. Thus, rights, for Dworkin are very essential for the growth of individuals.

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Rights are understood in its relation to duties and obligations. In this connection, we can discuss following four types of rights as argued by Wesley Hohfeld in his *Fundamental Legal Conception* (1923):

- ✓ **Liberty rights:** allow a person to do something with no obligation; they are 'at liberty' to do things without any corresponding obligations. RIGHT
- ✓ **Claim rights:** based on the other person's correlating duties and obligations. It may be both negative and positive.
- ✓ **Powers rights:** enable their holder to change the rights and duties both of themselves and others.
- ✓ **Immunities:** It enables the individual immune from having his/her rights and duties changes or curtailed by others.

Now, to understand these rights, we can look at rights in its relationship with the duties and obligations, and if we do so, we identify, four types of rights as argued by Wesley Hohfeld in the foundational legal conception. These four kinds of rights are liberty rights, claim rights, power rights or immunities. Basically, these rights can be understood in its relationship with corresponding or correlation with duties and obligations of the right bearing citizens. One such kind of rights is liberty rights. This liberty rights allow a person to do or to get something, done without any corresponding obligations.

So, certain rights are recognized for the individuals to grow without necessarily, corresponding duties and obligations for individuals to do or to exercise those rights. That person who has the liberty rights or they are at liberty to do things without any corresponding obligations. Thus, he or she is free to do certain things without any consideration or any requirements to do something like, corresponding duties or obligations to exercise those rights. Therefore, those rights are considered as liberty rights.

Second is right to speech or freedom of speech and expression which can be regarded as liberty rights or to opt for a particular profession, teaching, doctor, lawyer, etc. The claim is that rights are based on persons, corresponding to duties and obligations. It may be both negative and positive rights. The claim rights are basically, the claims that we make for the growth of our own personality, development from the society and state. Now,

these claims can be both negative and positive as I have discussed in my previous lecture about the negative and positive conception of rights, where one kind of claims prevent other person. Here, it means that the society or state has to do something. Example of a claim is right to life which is one such right that prevents the other from getting one killed. So, one's right to life is a claim which prevents the other to do something, for me to exercise this right. And, that is a negative claim.

The positive claims would be, where we want the society or state, to provide a condition for me to exercise or to play a proactive role for me, to exercise certain rights. So, these rights can be both positive and negative rights which we call as the claim right. Thus, right to education and some other things which require the state's proactive roles or societies role in order for individuals to exercise his rights or her and to make certain choices and acquire certain capabilities.

The third kind of right is power rights which enable the holder of this right to change the rights and duties for not only, themselves, but also, for others. So, these rights, the power rights, certain to some institutions or leaders, the power rights thus, enable individuals to change their rights and duties, both for themselves or others.

Immunity is something, which is given to the bearer of this right which cannot be changed or curtailed by others. So, it enables the individual immune from having his rights and duties change or controlled by others. Thus, these certain rights are considered as the immune rights.



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**The Libertarian Theory of Rights**

- Libertarian conceptions of rights which give primacy to individual and his welfare and happiness over collectives or communities was a response to egalitarianism, multicultural and communitarian arguments about equality, rights, and justice. The most prominent champion of libertarian philosophy in contemporary times is Robert Nozick. His book *Anarchy, State and Utopia*, published after John Rawls's *A Theory of Justice*, is a libertarian reply to the egalitarian theory of Rawls. Rawls in his book tried to reconcile the concern of equality and community with the demands and concerns for liberty and development of the individuals.
- Nozick argued that each individual has certain rights such as property rights which are absolute. And he argued against the infringement of this right to property of the individual in the name of collective goods or welfare. His conception of justice is called 'entitlement theory of justice'. He gives two ways in which wealth can be legitimately or justly acquired. First, he argued that a person who acquire the property in accordance with the principle of justice is entitled to that property. Second, if a person has acquired that property through legitimate transfer from someone who is rightful owner of that property. Property acquired thus are just and through any other means is regarded unjust.
- Nozick wanted past injustices to be rectified, however, his principle is essentially in the defence of free market liberal economy. He wanted individual to be given maximum liberty regardless of its consequences on the collective welfare or its economic implications.

If we, quickly move on to the different theories of rights and foremost among them is the libertarian theory of rights which talks about individuals, his welfare and happiness which must be given primacy over the welfare and happiness of collectives or communities. So, the libertarian conception gives primacy to individuals, his welfare and happiness. An individual, here, is understood as a self-defining, autonomous individual who is independent and above the society or collectivity.

So, libertarian argument is based on the premise of understanding individual as a self-defining unit or a subject who is autonomous from the society or collective body. They argue about giving primacy to the welfare and happiness of individuals over the collectives or communities. This argument is in response to the egalitarianism, multiculturalism or the communitarian arguments about equality, rights and justice. The most prominent champion of the libertarian theory of rights in contemporary times is Robert Nozick. His book, *Anarchy State and Utopia* was published after John Rawls, *Theory of Justice*. We are referring to John Rawls, in the topic on equality as well. We refer to his argument especially, when talking about distributional aspects of equality.

In the next topic, on justice, we will discuss in details about different elements in Rawls theory of justice. And, why it is considered a significant conceptualization of theory in modern times, and how, it laid to a series of arguments and counter arguments is about the conception of state. His work, *Anarchy State and Utopia* of Robert Nozick was

published after the publication of Rawls theory of justice. This book is a libertarian reply to the egalitarian theory of Rawls. So, why, Rawls theory is considered egalitarian, we will discuss. But this conception of justice is responded to by this text of Robert Nozick called *Anarchy State and Utopia*, where he defended the right to property and in no circumstances, if property is acquired justly, it should be influenced upon or taken away for the re-distributional purposes.

Rawls in this book, tried to reconcile the concerns of equality and community with the demands and concerns of liberty, and development of the individuals. So, Rawls theory of justice is a kind of reconciliation of these two opposing concerns and demands of individuals and community, equality, and liberty. Therefore, Rawls tries to reconcile between these two opposing aspirations of individuals and community.

In response, to that kind of theory, Nozick argued that each individual has certain rights, such as property rights which are absolute. He argued against the infringement of the right to property of individuals in the name of collective goods or welfare. His conception of justice is also called the 'entitlement theory of justice'. So, if individuals, acquire his or her property or if such acquiring is on the basis of just principle or through just means, then, it gives the individual certain entitlements which cannot be taken away in the name of larger good or collective good. He gives two ways, in which wealth can be legitimately, or justly, acquired by the individuals.

What are these means? First, he argued that a person who acquires the property in accordance, with the principle of justice is entitled to that property. So, the individual's entitlement to property is based on this principle, whether he or she has acquired that property through legitimate means, or not, and if such, acquiring is on the basis of legitimate or just means, then he or she is entitled to that property.

The second principle of acquiring property is that if, a person has acquired that property through legitimate transfer from someone who is the rightful owner of that property. So, if someone, who is the rightful owner of property and if he or she, transfers that property to other individuals, then the other individual is entitled to that property. Because it is, transferred to him or her, by someone, who is the rightful owner of that property. These are the two basic criteria of acquiring property which Nozick talks about and any other criteria by which property is acquired, he considered that as unjust.

All the mechanisms through which property can be acquired is through these two means and if it is such, then it is just a legitimate means and individual is entitled to that property, if it is acquired through other means, then, it should be regarded as unjust acquiring.

Nozick, wanted past injustices or historical injustices to be rectified. However, his principle is essentially, in defense of a free-market liberal economy. So, Nozick, wanted to give primacy to the liberty and individual autonomy or freedom without any consideration to the re-distributional aspect or equalizing factor that is, argued by many libertarian theorists and scholars. He wanted individuals to be given maximum liberty, regardless of its consequences on the collective welfare or economic implications of such liberty. In this conflict, what we find is on the one hand, we have a range of scholars of arguing and creating a society, more equal and egalitarian, even if, it requires limiting or curtailing the rights of individuals.

Libertarian, on the other hand, wants their society to not just give maximum freedom, but even if, such freedom leads to some inequalities or adverse implications in the society, even that is good, because such process is just, if we acquire the property and we allow individuals to acquire the property through just means.

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**Communitarian Perspectives on Rights**

- Communitarians regard rights or justice as important for the progress and development of individual and society. However, they criticize the ahistorical and external criterion which is applied by the liberals to criticize the actual and everyday lived realities of communities in the society. The communitarians criticize the understanding of the individual as self defining autonomous subject. They criticize not the universality, nor the emphasis on justice but the liberal conception of individual. For the communitarians individual is not an abstract category but is deeply embedded in his/her social and cultural community. In the liberal conception individual well being and happiness is seen as independent and autonomous of his/her community whereas communitarians argue that individual make sense of and enjoy his/her wellbeing and happiness in his/her community. And therefore, they argue that while allocating rights to the individuals we should also take into account his social and cultural backgrounds.
- Michael Sandel in his book *Liberalism and Limits of Justice* (1982) argues for the abandonment of liberal notion of 'politics of right' for 'politics of common good'. He believed that many premises of liberalism such as absolute and universal justice; the idea of absence of common shared goal; individual independent of common shared goods and ends and so on is flawed.

The next perspective on right is the communitarian perspective that is in contrast to, what we have just discussed about the libertarian theory of rights.

Communitarians regard rights or justice as important for the progress and development of individuals and society. Like libertarians, communitarians equally, regard rights and justice as very significant for the growth of individuals and society. However, they criticized, first the 'a historical' and external criteria which is applied by the liberals, to criticize the actual and everyday lived realities of communities in society. So, they want this discourse on rights should be sensitive, to the actual lived realities of different communities in society and not having a kind of hypothetical, abstract or 'a historical' assumption about certain rights. In the natural right theorists or the social contract predictions, we have seen how, individual is assumed to be independent and autonomous of society and his or her community. But in the actual lived reality, individual is always, embedded in his or her community. However, the libertarian or liberal takes 'a historical' or abstract understanding of individuals.

Thus, the communitarians, criticized that aspect of liberals and they criticized understanding of individuals as self-defining, autonomous subject, as it is argued by the liberals or libertarians. They criticized not the universality, or the emphasis on justice, but the liberal conception of individual. For the communitarians, individual is not an abstract, category or entity, but is deeply, embedded in his or her social and cultural community. And if, that is so, one kind of understanding of individuals as self-defining, autonomous individual is challenged and criticized by the communitarians which believed that individual is embedded in his or her social and cultural community. And that embeddedness gives a certain worldview which defines the welfare to an individual.

When we discuss about rights, we must take into account those differences like cultural and social differences of individuals. In the liberal conception, individual well-being and happiness is seen as independent and autonomous of his or her community. Whereas, communitarians, argue that individuals make sense of and enjoy his or her well-being or happiness in his or her community. Therefore, they argue that while allocating rights to individuals, we should also, take into account his social and cultural backgrounds. In other words, the liberal conception wants certain rights to be given to everyone universally, where there is no difference or differentiation between two sets of individuals.

However, communitarians, argues about granting certain rights to individuals not because he is regarded as autonomous or self-defining individual, but because he or she

belongs to a certain community. The membership to that community should also, entitled that individuals to have certain differential rights.

Michael Sandel in his book, *Liberalism and the Limits of Justice*, argues for the abandonment of the liberal notion of politics of rights and for the politics of common good. Now, what is the common good? It is about the idea of shared goals or objectives. Liberal premise, according to, Sandel is flawed because it conceptualized an absolute or universal notion of justice or rights. It also, believes in the absence of common, shared goals among the individuals. It believes that individual knows what is good for him or her and he or she collectively, cannot formulate something, which should be a shared ideal. Michael Sandel, criticized the liberal ideals based on certain flawed premises, such as, it believes in the absolute and universal notion of justice. It also, believes in the absence of common shared goals and individuals who are independent of common shared goals and ends.

These are some of the flaws of liberal premises which regards individual as a unit and therefore, the rights should be distributed on the basis of understanding that the society is constitutive of individuals and individual has their own rights and sense of good. There are no collective or shared goals which can be defined or applicable to everyone in the society. Therefore, the liberals argued about individuals as the right bearing citizens and not the collective society. So, Michael Sandel, questions that kind of argument in liberalism.

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➤ Michael Walzer argue that the very quest for a universal theory of the rights is misguided. For him the best way to identify the rights and goods is to find out how a particular community understands the values of social good. He believed that the principles that govern the discourse on rights should be based on the shared beliefs and understandings of all the members in the society. And in this way, for Walzer, rights and justice are more about cultural interpretations than about philosophical arguments. He argued that shared principles of rights and justice require 'complex equality' that is 'a system of distribution that does not try to equalize all goods, but rather seeks to ensure that inequalities in one 'sphere' do not permeate other spheres'.

*will Kymlicka*

**Multiculturalist Perspectives of Rights**

➤ One of the biggest challenges of liberal democracies in the contemporary time is to reconcile between the ideal of equality on the one hand and social-economic and cultural difference of the communities on the other. The role of democratic state in treating everyone with 'equal concern and respect' are increasingly being questioned as such uniform and universal approach do not make the distinctions between the individuals from different socio-economic backgrounds.

➤ They make a distinction between 'formal' and 'real' or 'genuine' equality and argue that 'difference blind' approach to rights are insensitive to the differential needs of the individuals and communities. And therefore, they argue for group rights should be recognized for ethnic groups and national minorities.

Michael Walzer is another such communitarian scholar, who argued that very quest for a universal theory of rights is misguided. For him, the best way, as we have discussed is in our lecture on equality, where we have discussed about 'complex equality'. So, for Michael Walzer, the best way to identify, the rights and goods is to find out, how a particular community understands the value of social good.

For Walzer, the good or social good is something, which is socially, constituted. It cannot be decided 'a priori' or through philosophical argumentation or counter argumentation, but society together, or communities together, constitute what is shared and what they value as the social goods. He believed at the principles that should govern the discourse on rights and it should be based on the shared beliefs and understanding of all members in society. In this way, for Walzer, rights and justice are more about cultural interpretations, than about philosophical arguments.

He argued that shared principles of rights and justice require complex equality, that is, a system or distribution which does not try to equalize all goods, like libertarian and those who believed in the equality of outcome. But it seeks, to ensure that inequalities in one sphere do not permeate into other sphere. That is, what Michael Walzer argued about the first social constitution of good and second, it should be based on participation or on the beliefs of every member in society. And society, thus, must not ensure to equalize the distribution of good. But it must ensure that inequality in one sphere must not influence

or permeates in the other sphere of life, and that is how, he argued about differential or differentiated rights, depending upon different conceptions of social goods by different communities.

Now, if we move on to the multicultural perspective of rights, one of the biggest challenges of liberal democracies in contemporary times is to reconcile between the ideal of equality on the one hand and social, economic and cultural differences of the community, on the other hand. There is an urge to equalize, to give everyone equal access, to treat everyone equally, but there is a simultaneous presence or existence of socio-economic and cultural differences. To reconcile between these two, the urge or the aspirations for equality and simultaneous presence of social, economic and cultural differences are some of the biggest or one of the central challenges in the modern liberal democracy.

The role of a democratic state in treating everyone with equal concerns and respect is increasingly, being questioned as such uniform and universal approach do not make the distinction between individuals from different social and economic backgrounds. This is also, an approach based on the understanding of individuals belonging to a particular community and that belongingness to a particular community also, shapes or determines the value of individuals or opportunity for individuals.

When a liberal state follow a universal or uniform approach to re-distribute, it does not understand the differential needs of different individuals belonging to actual and different communities in the society. They make a distinction between the formal, real and genuine. This universal uniform approach as, we have discussed is about political and legal equality. This is a very formal notion of equality. This does not turn into the substances or actual realization of equality in life, because of the socio-economic and cultural differences that exists in society. They make the distinction between formal and real or genuine equality, and argues that difference blind approach is the uniform approach which treats everyone equally, and that approach is blind to the actual existing differences in society.

The difference blind approach to rights is insensitive to the differential needs of the individuals and communities. So, the needs of a sick man or a healthy man or male or a female or a grown up adult or a child or a minority, or a person belonging to a minority

community or ethnic, religious, linguistic minority communities or groups or a person belonging to the majoritarian groups are different. Therefore, in treating them, we must be sensitive to their differential needs that do not have a kind of difference, or a blind uniform, universal approach to rights. So, they argue, for group rights which should be recognized for ethnic groups and national minorities.

One such thinker is Will Kymlicka. He argued for the need of recognizing the needs of individuals who belong to a minority or national minority community. He goes on to make other kinds of groups like immigrant groups, and poly-ethnic groups. But here, we need to understand, how the needs of national minorities are different from those who belong to a national majority community.

There are chances that the economic or political decisions are taken by the majority because of their large numbers or they have certain negative implications and consequences, on the social and the cultural practices of a minority community. In that situation, even without their fault, they are victims of policies made by the national majority. So, to prevent such situations, Will Kymlicka, argues about giving special representation, or more autonomy, or to give rights based on their language, and giving ownership to lands. In that way, the condition of minorities or national minorities can be protected from encroachment and majority communities.

Similarly, the society can be made more equal, even when there is a kind of differential treatment depending upon conditions and the status of different communities in the society. In other words, these thinkers are arguing about the group differentiated rights rather than a uniform and universal rights.



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➤ Similarly, Bhikhu Parekh argues that in a multicultural society there exist a number of cultural, linguistic and religious communities which generally demand various kind of rights which are not possible to be accommodated within the liberal jurisprudence of rights. However, there is danger of group rights as well. First, how far group rights are coherent or logical? Not all demands of the groups can be regarded as logical.

**'Asian Value' Debates**

➤ In the 1990s there emerged a growing consciousness among many Asian leaders like Lee Kuan Yew of Singapore that 'Western' conception of human rights are limited and selfishness. In contrast to western emphasis on individual and his/her exclusive rights, these leaders have argued that 'Asian values' give priority to community lives, social order, respect for authority, general welfare, and loyalty to family, state, and nation.

➤ Thus, in contrast to western conception of rights that focuses on individual over general welfare, in the Asian countries, it is argued that there are major cultural and historical differences which do not allow the western commentators to appropriately comprehend these values which sustain both individual and collective lives in these communities.

➤ These values are often regarded by the western theorists as a way of justifying authoritarian rule and governments. However, these are result of growing consciousness among the Asian countries about the limited, selfish, and destructive paths of modern western capitalism.

Similarly, Bhikhu Parekh, argues that in a multi-cultural society, there exists a number of cultural, linguistic and religious communities which generally, demand various kinds of rights which are not possible to be accommodated within the liberal jurisprudence of rights based on individual rights. Thus, the demands of different communities are not possible to be accommodated within this liberal jurisprudence of rights.

However, there is a danger of group rights as well. First, how far, group rights are coherent or logical. Not all the claims, as we have discussed, which we think is necessary, for our growth turned out to be the right. Because, it needs to be recognized by society as these claims are necessary, for individuals to grow.

Similarly, the different communities and groups in the society are making different claims which are not necessarily, coherent or logical. So, not all demands of groups can be regarded as logical and this is the problem with the multi-cultural or communitarian theorists. The liberal theorists believes in a kind of contextual, abstract ideals or assumptions about individuals and guarantying or sanctioning certain rights to them not because he or she is a member to a particular community, but because, he is regarded as a human-being or a rational being. Therefore, he has certain rights which are inalienable.

These multi-culturists or communitarians, who believe that the individuals are embedded in a community. Therefore, rights should be differential keeping in mind the belongingness to a particular community which do not have convincing answer to this

problem that all demands or claims of the community or groups be regarded by the majority or the rest of community, and how far that claim is logical or rational. If it is not, then, how to tackle such kind of situations. In the multi-cultural or communitarian perspectives on rights also, we will see basic assumptions which are similar to liberalism. However, their differences are emphasis on the community and groups as equal or as significant, than the identity of individuals. So, the emphasis for them is the community rather than individual. An individual carry certain rights because of his membership to a particular community, like national minorities, or linguistic minorities.

Finally, we will discuss about the 'Asian value' debates on rights which emerge in the 1990's with a growing consciousness among many Asian leaders like Lee Kuan Yew of Singapore. On that western conception of human rights, we will have one lecture on human rights, and rights and duties, separately. The growing consciousness about western conception of rights is limited and selfishness leads to this debate in theory which we call 'Asian value' debates.

Of course, within Asia, there is a lot of variety and differences or heterogeneities. However, there is a kind of response to the western conception of human rights which is considered as culturally, insensitive or different from overall set of values of the non-western, especially, the Asian society. In contrast to the western emphasis on individual and his or her exclusive rights, these Asian leaders have argued that 'Asian value', this term is not homogeneous, within it there is a lot of difference or heterogeneities as I have said. However, they argued that the 'Asian value' give priority to the community lives rather than individuals, social order, respect for authority, general welfare, loyalty to family, state, and nation. That is the kind of response to the western focus on individuals and his or her exclusive rights.

Thus, in contrast to, the western conception of rights which focuses on individuals over general welfare in the Asian countries, it is argued, there are major cultural and historical differences which do not allow the western commentators to appropriately, comprehend these values which sustains both individual and collective lives in these communities. So, they argue that in these societies, historically and culturally, their sense of welfare and happiness is constituted very differently, on different sets of values which are not always, understood or appropriately, comprehended by the western theorists or commentators.

These values are often, regarded by the western theorists or scholars as some values, we justify, the various authoritarian rule and governments. So, for many western scholars and the theorists, these values enable the conditions which lead to authoritarian rule or government in these societies. However, the 'Asian values' or realization of these values are results of growing consciousness among the Asian countries about the limited, selfish, or destructive paths of modern, western capitalism or modes of development.

In many Asian societies, like in China, the Confucious philosophy or in India or in South-East Asian countries, there is the growing realization of limitedness or selfishness of the western conception of theory or individuals, or how to govern the collective life as self-destructive. Therefore, they realize that the 'Asian values' are different which not only, help in organizing the collective, political or social life, but also, to provide enabling conditions for individuals and community to live together, to sustain his or her life in the lives of community. That growing realization of values, we sustain the individual and collective life in Asia which is regarded as different from the western conception of liberty.

That is all in today's lecture. We have seen different conception of rights, especially, we began with Ronald Dworkin, where he argues about taking rights seriously, and also, to identify four kinds of rights. We see through relationship of rights with corresponding obligations and duties like liberty rights, claim rights, power rights or immunities. Finally, we have discussed about this libertarian, multicultural or the communitarian perspective of rights, where the basic things that we need to take into consideration is about understanding of individuals. So, question arises, who carries the rights and on what grounds?

Libertarian, argues believing in individuals, his capability or rights to acquire property, to lead his life the way he or she wants to lead and it is based on the assumption that individual is the self-defining individual. Whereas, the multi-culturalists or the communitarians, argues, about embeddedness of individuals in his or her own community. Therefore, the rights that we sanction or recognize or protect these individuals should be on the basis of his or her membership to that community and with national minorities, or poly-ethnic groups.

However, what communitarians or multi-culturalists fails to understand or convincingly, argue is how far or on what kind of claims can be regarded as legitimate claims, logical claims or claims which can be regarded as illogical or incoherent or illegitimate. So, there is no adequate answer to such kinds of dilemma. We also, find some kinds of liberal assumptions, which guides many arguments of the multi-culturists and communitarians, where they agreed to have some common assumptions, and agreed upon principles or values by all communities and within that they can start with different understandings of and different approaches to goods.

(Refer Slide Time: 50:23)

**References**

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3. McKinnon, Catriona (2012). *Issues In Political Theory (Second Edition)*. United Kingdom, Oxford University Press.
4. Barry, Norman P. (1989). *An Introduction to Modern Political Theory*. United Kingdom: Palgrave Macmillan.
5. Dryzek, John S., Bonnie Honig and Anne Phillips (eds.) (2006). *The Oxford Handbook of Political Theory*, New York: Oxford University Press.

The topic is rights which we have covered in this lecture. You can refer to some of these literatures like Papia Sengupta Talukdar's, 'Rights' from Rajeev Bhargava and Ashok Acharya's book. Hoffman and Paul Graham's, *Introduction to Political Theory* or Catriona McKinnon's, *Issues in Political Theory*. Norman P Barry's, *An Introduction to Modern Political Theory* and Dryzek and Phillips's, *The Oxford Handbook of Political Theory*. You can refer to some of these books which we have covered in today's lecture. That is all for today. Thank you for listening.

Thanks to all.